

**DRAFT**

**Board for Professional Engineers and Land Surveyors  
Board Meeting Minutes  
June 22, 2006**

**2535 Capitol Oaks Drive  
Third Floor Conference Room  
Sacramento, California, 95833  
(916) 263-2222**

**Thursday, June 22, 2006, beginning at 10:00 a.m.**

**Thursday, June 22, 2006**

**Board Members Present:** Cindy Tuttle (President), Arthur Duffy, James Foley, Robert Jones, Richard Lyons, Millicent Safran, Patrick Tami, and Edward Yu

**Board Members Absent:** None

**Board Staff Present:** Cindi Christenson (Executive Officer), Cindy Fernandez (Executive Analyst), Gary Duke (Legal Counsel), Linda Schneider (Liaison Deputy Attorney General), Nancy Eissler (Enforcement Program Manager), Joanne Arnold (Assistant Executive Officer), Tiffany Criswell (Enforcement Analyst), and Debbie Thompson (Budget Analyst)

**Public Present:** See Attached

**1. Roll Call to Establish a Quorum**

The meeting was called to order by President Tuttle at 10:05 a.m. Roll call was taken, and there was a quorum.

President Tuttle introduced new Board member, Mr. Patrick Tami, PLS, and swore him in.

**2. Public Comment**

No public comment.

**7. Comity and Temporary Authorization Applications (Possible Action)**

**MOTION:** Mr. Duffy/Ms. Safran moved to approve the Amended Handout Comity List.

**VOTE:** 8-0, motion carried.

**8. Retention Policy for Board Internet Publications (Possible Action)**

No report given.

**9. Release of NCEES Professional Land Surveyor and Structural II Exam Results for Comity Purposes Prior to Release of State Specific Exam Results (Possible Action)**

Ms. Christenson reported that at the last Board meeting it was reported that the computer system used by the Board is unable to report national examination results separately and prior to the release of state specific results at this time.

Ms. Christenson recommended an interim solution, of importing data from NCEES to a word document and producing a letter that would tell the candidate that they either passed or failed. Ms. Christenson stated that this is a very small population, approximately 600 candidates.

Ms. Christenson stated that if the Board approves a policy of releasing results for comity purposes only, staff recommends that the request for the release of the results be made by the state in which the individual is applying for comity instead of releasing results to the candidate directly.

Board directed staff to utilize the interim solution.

**10. Board Rule 425 Experience for Land Surveyors in Non-ABET and Non-4-year Institutions (Possible Action)**

Mr. Foley reported that a colleague called him asking for clarification on Board Rule 425, Experience for Land Surveyor.

Mr. Foley would like to have the LS TAC look into credit for an AA or for a Non-ABET Degree.

The Board concurred and assigned the task to the LS TAC.

**6. Approval of Delinquent Reinstatements (Possible Action)**

**MOTION:** Mr. Lyons/Mr. Yu moved to approve the Delinquent Reinstatements as follows:

## **CIVIL**

### **1. Laura Jane Alden**

Reinstate applicant's civil license once he/she has taken and passed the Board's Laws and Regulations Examination.

## **CIVIL AND STRUCTURAL**

### **1. Ross Thomas Atkinson**

Reinstate applicant's civil and structural licenses, having met all requirements for reinstatement, including passing the seismic principles and engineering surveying examinations, and the Board's Laws and Regulations Examination.

## **GEOTECHNICAL**

### **1. Shahen Askari**

Reinstate applicant's geotechnical license once he/she has taken and passed the Board's Laws and Regulations Examination.

## **MECHANICAL**

### **1. Yuk-Choy Thomas Chong**

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

### **2. Paige Kohli Hoffman**

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

**VOTE:** 8-0, motion carried.

## **11. Amend Board Rules 407 (Fees), 443 (Inspection of Examination), and 444 (Examination Appeal) (Possible Action)**

Ms. Christenson reported that this item was brought to the Board approximately 1½ years ago, but DCA had concerns with the package and it was withdrawn. It is the Board's policy to be consistent with NCEES, the problem is we allow candidates to appeal, there is also concern with the appealable range.

**MOTION:** Ms. Safran/Mr. Yu moved to amend Board Rules 407 & 444 as recommended by staff.

**VOTE:** 8-0, motion carried.

**MOTION:** Ms. Safran/Mr. Duffy moved to allow candidates who are no more than 15% below the passing score on a NCEES examination be allowed to appeal their examination.

**VOTE:** 8-0, motion carried.

3. **Hearing on the Petition for Reduction of Penalty of Robert Lee Eddy**  
The hearing on this Petition will be held on Thursday, June 22, 2006, beginning at 10:00 a.m., or as soon thereafter as the matter may be called.  
The Board heard the Petition for Reduction of Penalty of Robert Lee Eddy.
4. **Hearing on the Petition for Reduction of Penalty of Leslie Curtis Marquoit**  
The hearing on this Petition will be held on Thursday, June 22, 2006, beginning at 10:00 a.m., or as soon thereafter as the matter may be called.  
The hearing on the Petition for Reduction of Penalty of Leslie Curtis Marquoit was postponed at the request of the petitioners.
5. **Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)] – This Closed Session will be held immediately following the hearings on the Petitions.**  
Following the hearing on the Petition for Reduction of Penalty of Robert Lee Eddy, the Board met in Closed Session to decide the matter and directed the Administrative Law Judge to prepare the written decision.
23. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**
  - a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
  - b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)
  - c. Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS 100633
24. **Open Session to Announce the Results of Closed Session**  
Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS 100633

Ms. Christenson reported that the Board approved the passing scores for the April 2006 examinations:

- EIT Pass/Fail Only
- LSIT Pass/Fail Only
- Chemical Pass/Fail Only
- Electrical Pass/Fail Only
- Mechanical Pass/Fail Only
- Civil 8-hour Pass/Fail Only
- Seismic Principles score of 152 out of 300
- Engineering Surveying score of 170 out of 300
- Structural National Pass/Fail Only
- Land Surveyor National Pass/Fail Only

Ms. Christenson reported that the Board adopted the Stipulations regarding Fredric Vernon Allen, Larry James Fast, Mohamed Bashir Ganaba, Darrin E. (Pete) Jackson, and Dustin K. Rosepink; adopted the Proposed Decision regarding Michael Z. Yevtovich; and adopted the Default Decision regarding Alexei Fajardo Lukban.

## **12. Approval of Oregon Traffic Engineering Examination for Comity Purposes (Possible Action)**

Ms. Christenson gave a brief history on why Oregon no longer buys our examination. The Oregon Traffic Engineering is an eight-hour written exam and it is prepared by the Oregon Board. If the Board chooses to pursue granting comity, the determination of equivalency to the California Traffic Engineering examination would have to be made by licensed Traffic Engineers. Staff is in the process of obtaining data from Oregon on its Traffic Engineering examination.

The Board directed staff to obtain exams from Oregon and to convene licensed Traffic Engineers to review the exams for equivalency.

## **13. Administration**

### **a. Fund Condition**

Ms. Thompson reported on changes included in the Board's fund condition dated June 1, 2006:

- The application revenue projection for FY 2005-06 decreased from \$3,452,927 to \$3,443,666.
- The actual reimbursements for FY 2005-06 increased from \$45,380 to \$46,330.
- The renewal revenue projection for FY 2005-06 remains at \$5,172,850.
- For FY 2005-06, the Board's total revenue through April 30, 2006 was \$8,427,491 which is \$1,918,864 more than the total received in the prior FY through April 30, 2005.

Revenue for the next three fiscal years is projected to exceed expenditures by approximately \$1 million providing the Board with a three-month reserve.

**b. Fiscal Year 2005/06 Budget**

Ms. Thompson reported that the Board's total expenditure through April 30, 2006 is \$5,399,318 excluding major contract encumbrances set aside. The projected total expenditure for to the end of FY 2005/06 is \$7,614,444 leaving a balance after expenditures of \$159,960 or approximately a 2% reserve.

**c. Fiscal Year 2006-07 Budget Change Proposals**

Ms. Thompson reported that the Board's BCPs were approved on consent at both the Senate and Assembly Budget hearings. Board staff will begin the hiring process for the three additional Enforcement Program analysts and the mail clerk position requested requested in the BCPs once the 2006 Budget Bill is signed by the Governor.

**d. Fiscal Year 2007/08 Budget**

Ms. Thompson reported that the Board submitted the finalized BCPs for FY 2007/08 to DCA June 6, 2006 to augment the Board's budget for the SME Hourly Rate Increase and additional positions needed for the reporting of legal actions (Ch. 691, Statutes of 2004).

Mr. Foley questioned if there were additional requirements beyond the reporting of legal actions from the Sunset Hearings that the Board stated it would meet pending additional staff. Ms. Eissler indicated the Board had indicated it could obtain added information from applicants regarding their education; however, this was not included in the legislation. Provisions Chapter 691 that requires the reporting of legal actions state that the requirements are inoperative unless the Board obtains additional funding.

**e. Land Surveyor Contract Renewal**

Ms. Thompson reported that the RFQ is now being reviewed by the Department of General Services Legal staff. The final RFQ should be sent out to potential bidders in July 2006. The RFQ will be advertised in the State Contracts Registry website and in the CLSA website classified section.

Mr. Tami and Ms. Safran volunteered to serve on the RFQ Evaluation committee for proposals received.

Mr. Duffy questioned the reasons behind the lengthy timeframe for approval of a state civil service land surveyor (LS) position that will replace the LS contract. Ms. Thompson reported that even though the new position will be funded through use of the redirected LS contract funds, the

Board must obtain BCP approval to establish the new position in the budget. The BCP requires at least one year's time for approval. As such, the existing LS contract would expire several months before BCP approval. Beyond BCP approval, the Engineers Bargaining Unit, Department of Personnel Administration, and State Personnel Board approval is needed prior to developing a statewide exam to hire for the position.

The Board directed staff to request a three-month overlap of the PLS contract with the new position in 2009 for orientation purposes.

**f. Publications Review**

Ms. Eissler reported that the Handbook of Laws and Rules is being printed and will be out by early July 2006. The Enforcement Bulletin will be published in August or September 2006.

**14. Enforcement**

Ms. Eissler reported that the Enforcement Unit staff is working diligently to reduce the backlog of older complaint investigation cases. The Unit is looking forward to filling the new positions it will be receiving in the FY06/07 budget.

**15. Legislative**

**a. Discussion of Legislation for 2006, including but not limited to AB 180, AB 1561, AB 1588, AB 2835, and SB 246, SB 1476, SB 1849 (Possible Action)**

Mr. Duffy reported on the information contained in the agenda and an amended handout was provided.

Ms. Arnold reported on SB 1849; Land Surveying (Committee omnibus bill). Among other things, this bill revises the definition of land surveying to include making certain determinations regarding the earth or relative fixed objects by applying geodesy, and would revise the definition of geodetic or cadastral surveying.

Mr. Simoni, of CLSA, provided the Board with a handout of CLSA's proposals in regards to SB 1849. Mr. Simoni advised that he was aware that the Board had some concerns with the proposed amendments to Section 8726(b) and that he hoped to address those concerns. He advised that CLSA had discussed the proposal with CELSOC as well.

Mr. Duffy asked if the proposal had been forwarded to PEGG for review. Mr. Simoni stated that he was not sure if this had been done. Mr. Tami advised that one of the CLSA Legislative Committee members who had worked on the proposal is a PEGG member.

Ms. Eissler advised the Board that, from an enforcement standpoint, she was very concerned that the proposed amendments would make Business and Professions Code section 8726(b) read very differently than Business and Professions Code section 6731.1(b). Ms. Eissler explained that currently these two sections contain essentially the same language and define “engineering surveying,” which is that portion of land surveying that all civil engineers, no matter when their licenses were issued, can perform. Ms. Eissler explained that the Enforcement Unit receives numerous inquiries from civil engineers, land surveyors, and local agencies regarding what types of surveying a Post-82 Civil Engineer can perform. Ms. Eissler advised that she was concerned with the amount of confusion that would be caused, and the increased workload on Board staff trying to resolve that confusion, if Section 8726(b) is amended to include “geodesy” and Section 6731.1(b) is not. Ms. Eissler suggested that if “geodesy” now needs to be included in the definition of land surveying, but should not be included in the definition of engineering surveying, then it might be better to add a new subdivision in Section 8726 to include “geodesy,” rather than to amend Section 8726(b) and not Section 6731.1(b).

**MOTION:** Mr. Duffy/Mr. Jones moved to take a “Watch” position on SB 1849.

After further discussion, the following Substitute Motion was made and voted upon.

**SUBSTITUTE MOTION:** Mr. Duffy/Mr. Jones moved to “Support If Amended” SB 1849, with amendments to be made to Sections 6731.1(b) and 8726(b) so that they are consistent in wording; both sections should either include the term “geodesy” or it should be removed from Section 8726(b).

**VOTE:** 8-0, motion carried.

Since the Substitute Motion passed, the original Motion was not voted upon.

Mr. Duke addressed the Board regarding AB 2927, which is legislation to amend the California Public Records Act. Mr. Duke advised that the proposed amendments would affect the Department as well as all of the boards and bureaus. He stated that it could have a very significant fiscal impact. Mr. Duke explained that part of the proposal would require that all Statements of Economic Interests, which are required to be completed by the Board Members, the Executive Officer, and some of the staff, would



have to be published on the Board's website and would have to include a text-searchable feature. In addition, the proposed amendments would require the publishing of the names of any persons requesting access to public records and the publishing of any letters denying access to public records. Mr. Duke advised that he believes that, in order to comply with these new requirements, the Board would need a full-time staff position at the analyst level to review, analyze, redact, and scan all documents for posting on the website.

Several Board members expressed concern with the posting of personal information, both in the form of the Statements of Economic Interests and in the listing of persons requesting access to public records, on the internet due to identify theft issues. Mr. Duke advised that this is considered a "sunshine" bill to provide for a more open or accessible government; therefore, it is unlikely that DCA would take an "oppose" position to it. However, DCA is preparing a fiscal impact statement to show the significant fiscal impact to DCA, the boards, and bureaus of this proposal to provide to the Legislature. Mr. Duke requested that Board staff be directed to research and provide the fiscal impact on the Board to DCA as quickly as possible.

President Tuttle directed staff to prepare the requested fiscal impact information and provide it to DCA.

**b. Regulation Status Report**

No report given.

**16. Technical Advisory Committee Reports**

**(No Committee Meetings were held.)**

**a. Board Assignments to TACs (Possible Action)**

Ms. Safran asked when the TACs will be meeting again.

Ms. Christenson reported that a notice has been placed on the website requesting applications from licensees interested in serving on the TACs and that the staff liaisons are reviewing the TAC applications that have been received in the last several years; however, many of those are outdated.

**b. Appointment of TAC Members (Possible Action)**

No appointments were made.

**17. Liaison Reports (Possible Action)**

**a. ABET**

No report was given.

**b. NCEES**

**1. Proposed Amendments to the NCEES Constitution and Bylaws (Possible Action)**

No report was given.

**2. Appointment of Emeritus Board Members (Possible Action)**

**MOTION:** Ms. Safran/Mr. Duffy moved to appoint Dr. Brandow as an Emeritus Board Member.

**VOTE:** 8-0, motion carried.

**c. Technical and Professional Societies**

No report was given.

**18. Election of Board President and Vice President (Possible Action)**

**MOTION:** Mr. Foley/Ms. Safran moved to appoint Mr. Duffy as the new Board President and Mr. Yu as the new Board Vice President.

**VOTE:** 8-0, motion carried.

Mr. Jones left at 2:35 p.m.

**19. President's Report**

President Tuttle thanked the staff and the Board members for all of their hard work and support during her term as President.

**20. Executive Officer's Report**

**1. Administration Report**

**a. Executive summary report**

No additional report given.

**2. Personnel**

**a. New Hires**

Ms. Christenson reported that Joyce Hirano has been hired to replace Eileen Crawford, the Board's staff Civil Engineer.

**b. Vacancies**

No vacancies

**3. Enforcement/Examination/Licensing**

**a. College Outreach**

No report given.

- b.     **Report on Enforcement Activities**  
No report given.
    - c.     **Report on Examination Activities**  
No report given.
  - 4.     **Publications/Website**
    - a.     **Website Activity Statistics**  
No report given.
  - 5.     **Other**
    - a.     **DCA update**  
Ms. Christenson introduced Antoinette Sorick, DCA Deputy Director of Board Relations.
21.    **Approval of Board Travel (Possible Action)**  
No Board travel.
22.    **Other Items Not Requiring Board Action**  
**Date of Next Board Meeting: September 7 & 8, 2006, Southern California.**  
Ms. Eissler advised that there will probably be two Petition Hearings at the November 2006 Board meeting.
25.    **Approval of Consent Items (Possible Action)**  
**(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)**
  - a.     **Approval of the Minutes of the May 11, 2006, Board Meeting**
  - b.     **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**
- MOTION:**     Mr. Foley/Mr. Duffy moved to approve the consent calendar.
- VOTE:**        7-0, motion carried.
26.    **Adjourn**  
Ms. Christenson reported that Dr. Brandow and Mr. Wilson wanted to let the staff and Board members know how much they enjoyed working with them and that they missed everyone.

The Board adjourned at 2:45 p.m.

**PUBLIC PRESENT**

Tom Stout, CSPE/CLCPE

Ralph Simoni, CLSA